

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JOHN R. JORDAN, Jr.,

11 Plaintiff,

No. CIV S-03-1820 LKK KJM P

12 vs.

13 CAL A. TERHUNE, et al.,

14 Defendants.

ORDER

15 _____/
16 Plaintiff is a state prison inmate proceeding pro se with a civil rights action under
17 42 U.S.C. § 1983.

18 I. Defendants' Request For An Extension Of Time

19 Defendants have requested that the date set for filing dispositive motions be
20 extended from October 12, 2007 until November 30, 2007. Their request is supported by a
21 showing of good cause.

22 II. Plaintiff's Filings

23 On August 24, 2004, the court cautioned plaintiff that he might be subject to
24 sanctions, including dismissal of the action, should he continue to file frivolous or excessive
25 motions.

26 /////

1 On May 18, 2005, the court permitted plaintiff to file a second amended
2 complaint, but cautioned him not to include those claims which the court had previously
3 identified as not stating a claim under the civil rights action. Nevertheless, plaintiff's second
4 amended complaint, filed June 20, 2005, contained some of the claims relating to interference
5 with his mail which the court had previously found insufficient.¹

6 On April 21, 2006, plaintiff filed a motion to introduce evidence and exhibits,
7 which consisted of some five hundred pages of material including copies of administrative
8 regulations and the Bill of Rights, among other things. On April 26, 2006, the court ordered
9 these materials stricken from the record because plaintiff had not attempted to identify the
10 relevance of the documents or tie them to any pending motion. The court notified plaintiff that
11 it would not act as his filing cabinet and cautioned him that filing irrelevant documents could
12 subject him to sanctions, including dismissal of the action.

13 On September 19, 2006, the court issued a protective order staying discovery until
14 the motions were resolved. Nevertheless, on October 5, 2006, plaintiff filed a document entitled
15 "first set of admissions." On October 25, 2006, the court issued an order, striking plaintiff's
16 "first request for admissions" from the record, notifying plaintiff that he should not file
17 discovery requests with the court unless and until they are at issue and warning him that the
18 court would consider imposing sanctions, including dismissal, should plaintiff file additional
19 discovery requests.

20 On June 29, 2007, the court issued a discovery order, again informing plaintiff
21 that the filing of discovery requests may result in the imposition of sanctions, including dismissal
22 of the action and that he need not obtain the court's permission to pursue discovery.

23
24 ¹ Although the court did not order service on those claims, defendants noted plaintiff's
25 failure to comply with the order in their motion to dismiss, filed July 26, 2006. The court
26 ultimately denied that portion of the motion which was based on plaintiff's failure to comply
with court orders. See 2/14/07 Findings and Recommendations at 9.

1 On August 2, 2007, plaintiff filed a document captioned "Motion For Discovery."
2 Despite its nominal status as a motion, it is nothing but a discovery request, for it does not seek
3 to compel the defendants to honor earlier requests for discovery, but rather seeks sixty one
4 categories of evidence. It is denied.

5 On September 24, 2007, plaintiff filed a letter and approximately three hundred
6 pages of medical records. He alleges that other such records were removed from his cell within
7 days of his deposition and suggested that counsel for the defendants were involved because of
8 their symbiotic relationship with the Department of Corrections and Rehabilitation. Plaintiff has
9 made no attempt to explain the relevance of this mass of documents to this action, but appears
10 instead to have provided them to the court for safekeeping.

11 "Every paper filed with the Clerk of this Court, no matter how repetitious or
12 frivolous, requires some portion of the institution's limited resources. A part of the Court's
13 responsibility is to see that these resources are allocated in a way that promotes the interests of
14 justice." Martin v. District of Columbia Court of Appeals, 506 U.S. 1, 3 (1992) (internal citation
15 & quotation omitted). A court's inherent authority includes "the ability to fashion an appropriate
16 sanction for conduct which abuses the judicial process." Chambers v. NASCO, Inc., 501 U.S.
17 32, 44-45 (1991). Any sanction imposed must be tailored to the abuse. In re Anderson, 511
18 U.S. 364, 366 (1994).

19 In this case, plaintiff has been warned repeatedly against filing papers not
20 recognized by the rules of court or by court order. His refusal to comply with previous court
21 orders warrants the imposition of sanctions.

22 IT IS HEREBY ORDERED that:

23 1. Defendants' October 2, 2007 request for an extension of time in which to file
24 dispositive motions is granted; dispositive motions from any party are due no later than
25 November 30, 2007;

26 2. Plaintiff's August 2, 2007 motion for discovery is denied;

1 3. Plaintiff's September 24, 2007 letter and its attachments are stricken from the
2 record;

3 4. From this date forward, the Clerk of the Court is directed to return without
4 filing any pleading, letter, motion, or document longer than twenty-five papers including
5 attachments received from plaintiff, after making a notation on the docket showing the title
6 plaintiff has given the document and its length, if it is not accompanied by the motion described
7 in paragraph 6. If it is accompanied by a motion, the Clerk of the Court should follow the
8 procedures established in paragraph 6;

9 5. Should plaintiff attempt at any time to circumvent the twenty-five page
10 limitation imposed above by submitting more than one twenty-five page document relating to the
11 same motion, opposition or pleading, the court will thereafter limit the number of documents,
12 pleadings, motions or letters that plaintiff may file in a specified period of time;

13 6. If plaintiff desires to file a pleading or document longer than twenty-five
14 pages, including attachments, he must submit a motion with the document, explaining in detail
15 why he cannot confine himself to the page limits imposed in this order and why any attachments
16 are relevant to the motion, pleading, document, letter or case. This motion should not exceed ten
17 pages and should include no attachments. The Clerk of the Court is directed to file any such
18 motion, but is directed not to file the accompanying oversized document. Instead, the Clerk
19 should send the oversized document to the Magistrate Judge's chambers for review. If the Court
20 determines that plaintiff has not established a compelling need to exceed the page limitations, the
21 document will be returned to plaintiff;

22 7. Should plaintiff file motions for leave to file oversized documents as a routine
23 matter, the court will impose additional sanctions, including dismissal of the action; and

24 /////

25 /////

26 /////

1 8. Plaintiff is again directed not to file discovery requests except when required
2 by Local Rules 30-250(a), 33-250(c) and 36-250(c); failure to abide by this order will result in
3 the imposition of sanctions, which may include a limit on the number of motions, pleadings,
4 letters or documents plaintiff may file during a given period or dismissal of the action with
5 prejudice.

6 DATED: October 5, 2007.

7 
8 _____
9 U.S. MAGISTRATE JUDGE
10

11 2/jord1820.41(b)
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26